

DETAILED ACTION

This final-Office action is in response to applicant's amendment filed on 7/27/2011.

Status of Claims

Claims 1-13, 17-22 and 28 have been cancelled.

Claims 30-42 have been withdrawn.

Claims 14-16 and 23-29 are pending and examined.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,410,852 to Edgar et al.

3. Claims 14; 15 and 16: Edgar et al. disclose in Fig. 1; a rainscreen apparatus including: a substantially rigid air barrier 28 adapted for attachment to a building structure wherein said rigid air barrier 28 is in the form of at least one sheet said sheet having a relatively rigid reinforcing means 30 is a mesh of fiberglass (col. 4; lines 41-42) attached thereto; a rainscreen panel 20 adapted for attachment over the air barrier 28; a spacing member 22 adapted to provide a clearance space between the air barrier and the rainscreen panel; and sealing means 29 adapted to provide substantial pressure equalization within the clearance space (col. 5; lines 3-7); and the sheet having a

relatively rigid reinforcing means including a series of battens 37 laminated to at least one surface of said sheet and surfaces has an adhesive 27 provided thereon.

4. Edgar et al. disclose the basic structures for the rainscreen apparatus as stated but do not disclose expressly the rigid air barrier comprising a thin polymeric or substantially water repellent cellulosic material and having polyolefin material. However, this feature would have been a matter of obvious design choice to one ordinary skill in the art at the time the invention was made to have a different material such as polymeric, etc. for lightweight and water repellent reasons thus preventing water damage to the building.

5. Claims 23-25 stand rejected under 35 U.S.C. 103(a) as being obvious over US Pat. No. 5,410,852 to Edgar et al.

6. Edgar et al. disclose in Fig. 1; a rainscreen apparatus including: a substantially rigid air barrier 28 adapted for attachment to a building structure wherein said rigid air barrier 28 is in the form of at least one sheet said sheet having a relatively rigid reinforcing means 30 is a mesh of fiberglass (col. 4; lines 41-42) attached thereto; a rainscreen panel 20 adapted for attachment over the air barrier 28; a spacing member 22 having a slot 35 that allow air flow (col. 4; lines 49-51) adapted to provide a clearance space between the air barrier and the rainscreen panel; and sealing means 29 adapted to provide substantial pressure equalization within the clearance space (col. 5; lines 3-7); and the sheet having a relatively rigid reinforcing means including a series of battens 37 laminated to at least one surface of said sheet and surfaces has an adhesive 27 provided thereon. Edgar et al. disclose the basic structures for the

rainscreen apparatus as stated above but do not disclose expressly the rainscreen apparatus including at least two adjacent substantially rigid air barriers. However, this feature would have been a matter of obvious design choice to one ordinary skill in the art at the time the invention was made to have two rigid air barriers adjacent substantially in order to continuously provide a complete barrier around a building.

7. Claims 26-27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,410,852 to Edgar et al. in view of US Pat. No. 5,230,189 to Sourlis.

8. Edgar et al. disclose in Fig. 1; a rainscreen apparatus including: a substantially rigid air barrier 28 adapted for attachment to a building structure; a rainscreen panel 20 adapted for attachment over the air barrier 28; a spacing member 22 adapted to provide a clearance space between the air barrier 28 and the rainscreen panel 20; a sealing means 29 adapted to provide substantial pressure equalization within the clearance space (col. 5; lines 3-7). Edgar et al. disclose the basic structures for the rainscreen apparatus as stated but do not disclose expressly a rainscreen flashing including a first edge portion adapted to be located on or adjacent to a lower edge of said air barrier a second edge portion adapted to be located on or adjacent to an upper region of said rainscreen panel provided below said air barrier, and a central portion which is contiguous with said first and second edge portions and is provided at a substantially obtuse angle to said first and second edge portions, wherein said central portion slopes downwardly to allow water to drain over said central portion and exterior to said rainscreen panel. Sourlis discloses a mortar and debris collection device that including a flashing 20 is made out of sheet of vinyl or metal (see col. 4; lines 27-29) and positioned

adjacent to a wall (Fig. 1). In view of *sourlis*, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Edgar et al. a rainscreen flashing located adjacent to the air barrier at an obtuse angle in order to drain out water from the wall.

9. Claim 29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,410,852 to Edgar et al. in view of US Pat. No. 6,401,394 to Nozaki.

10. Edgar et al. disclose in Fig. 1; a rainscreen apparatus including: a substantially rigid air barrier 28 adapted for attachment to a building structure wherein said rigid air barrier 28 is in the form of at least one sheet said sheet having a relatively rigid reinforcing means 30 is a mesh of fiberglass (col. 4; lines 41-42) attached thereto; a rainscreen panel 20 adapted for attachment over the air barrier 28; a spacing member 22 adapted to provide a clearance space (wherein 27 points to in Fig. 1) between the air barrier and the rainscreen panel; and sealing means 29 adapted to provide substantial pressure equalization within the clearance space (col. 5; lines 3-7); and the sheet having a relatively rigid reinforcing means including a series of battens 37 laminated to at least one surface of said sheet and surfaces has an adhesive 27 provided thereon; a sealing member 36. Edgar et al. disclose the basic structures for the rainscreen apparatus as stated and further including a sealing member 36, but the sealing member 36 does not have at least two lips projecting from a base, the lips being spaced from each other. Nozaki discloses a sealing member 5A, having a base 51, at least two lips 52/53 projecting from the base and being spaced to each other (see Fig. 1). In view of Nozaki, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to substitute the Edgar et al. sealing member having a base and two lips projecting from the base and being spaced to each other in order to hold and support the rainscreen panel within the projecting lips and the sides of the projecting lips being contacted with the panel surface thus preventing air lost through joint cavity.

Response to Arguments

11. Applicant's arguments with respect to claims 14-16; 23-27 and 29 have been fully considered but they are not persuasive.

12. Applicant argues that the prior art to Edgar et al. do not disclose or show "a spacing member adapted to provide a clearance space between the air barrier 28 and the rainscreen panel 20". Examiner disagrees with the applicant's argument because as set forth in the Office action, a spacing member 22 positioned between a rainscreen panel 20 and an air barrier 28 that created a clearance space (where near 27 points to) that spacing between the two structures (rainscreen panel 20 and air barrier 28) is clearly shown in Fig. 1. Further, the spacing member 22 is clearly separating or spacing the two structures 20/28 apart and a clearing space in on top of the spacing member. In response to applicant's argument that the prior art to Nozaki is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Edgar and Nozaki are using a sealing means to prevent air leak through wall, door or window. Therefore; they are in the common problem solving areas.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272- 6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm. If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached at (571) 272-6928. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is

available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

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